



DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 232 and 252

[Docket DARS-2022-0009]

RIN 0750-AL53

Defense Federal Acquisition Regulation Supplement: Repeal of DFARS Provision "Payment in Local Currency (Afghanistan)" (DFARS Case 2022-D001)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove a solicitation provision that is no longer necessary.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Ms. Barbara J. Salcido, telephone 571-372-6102.

SUPPLEMENTARY INFORMATION:

I. Background

As required at DFARS subpart 232.72, Payment in Local Currency (Afghanistan), DFARS solicitation provision 252.232-7014, Payment in Local Currency (Afghanistan), is included in all solicitations, including solicitations using Federal Acquisition Regulation (FAR) part 12 procedures for the acquisition of

commercial items, for performance in Afghanistan. The provision notifies host nation (Afghan) vendors that the contract resulting from the solicitation will be paid in local currency (Afghani) via electronic funds transfer to a local (Afghan) banking institution unless an exception applies. It also notifies host nation vendors that contracts would not be awarded if they did not bank locally. Host nation vendors were required to submit quotations and offers in U.S. dollars, but the contract would be converted to Afghani using the current U.S. budget rate (i.e., U.S. Treasury rate of exchange) upon award.

Due to the drawdown of operations in Afghanistan, the text at DFARS 232.72 and solicitation provision 252.232-7014 are no longer required. The U.S. Department of the Treasury has placed the Taliban, the de facto government in Afghanistan, on the Office of Foreign Assets Control Sanction List. Therefore, payment cannot be made to an Afghan vendor in Afghani via electronic funds to an Afghan banking institution.

Consequently, this rule is repealing DFARS subpart 232.72 and solicitation provision 252.232-7014, since these requirements are rendered inoperable with the drawdown of operations in Afghanistan.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the FAR is 41 U.S.C. 1707, Publication of Proposed Regulations. Subsection (a)(1) of the statute requires that a procurement policy,

regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because the rule is merely removing an obsolete solicitation provision from the DFARS. The rule does not have a significant cost or administrative impact on contractors or offerors and does not have a significant effect beyond DoD's internal operating procedures.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold, for Commercial Products Including Commercially Available Off-the-Shelf Items, and for Commercial Services

This rule only removes obsolete DFARS subpart 232.72, Payment in Local Currency (Afghanistan), and DFARS solicitation provision 252.232-7014, Payment in Local Currency (Afghanistan). The rule does not impose any new requirements on contracts valued at or below the simplified acquisition threshold, for commercial products including commercially available off-the-shelf items, or for commercial services.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.) 12866 and E.O. 13563 direct agencies to assess all costs and benefits of available regulatory

alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

V. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801-808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs has determined that this rule is not a major rule as defined by 5 U.S.C. 804.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501-1, and 41 U.S.C. 1707 does not require publication for public comment.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 232 and 252

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 232 and 252 are amended as follows:

1. The authority citation for 48 CFR parts 232 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 232—CONTRACT FINANCING

Subpart 232.72 [Removed and Reserved]

2. Subpart 232.72, consisting of sections 232.7200, 232.7201, and 232.7202, is removed and reserved.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.232-7014 [Removed and Reserved]

3. Section 252.232-7014 is removed and reserved.